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SUBJECT: Gay Men Sentenced to Eight Years in Prison

1. (SBU) Summary: Nine gay men - several of whom were known anti-AIDS activists - were sentenced to eight years in prison for criminal conspiracy and committing "unnatural acts." The sentence is unusually harsh and has produced outrage among Senegalese human rights NGOs and AIDS activists, as well international gay rights organizations. The government of France has formally condemned the convictions and sentences and called for the release of the men and the decriminalization of homosexuality. The men's attorneys have appealed the conviction and are working with civil society to obtain their release. End summary.

#### Home of Gay Anti-AIDS Activist Raided by Police

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2. (SBU) On December 19, 2008, Senegalese police raided the apartment of prominent homosexual and anti-AIDS activist M. Diadji Diouf in a suburb of Dakar. Diouf heads the association AIDES Senegal, an organization that provides HIV prevention services to homosexual men. It is a local partner organization of the international public health NGO Family Health International (FHI), which is implementing a USAID-funded HIV project in Senegal. Police arrested Diouf and his guests who were in his apartment for a meeting to share information on AIDS prevention efforts in Senegal's gay community. Police charged Diouf with possession of pornographic material and paraphernalia. According to human rights activists, the material in question was for AIDS prevention and included items such as condoms and dildos. In addition, police also confiscated Diouf's mobile phone, saying it contained pornographic photos. At the time of the raid, Diouf and his friend M. Ba were arrested. The rest of the group, who had visited Diouf's home for HIV/AIDS counseling, were arrested later on.

#### Gay Men Charged with Criminal Conspiracy

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3. (U) On January 6, 2009, the nine men were judged and convicted of criminal conspiracy and engaging in "unnatural acts" and sentenced to eight years in jail and a fine of CFA 500,000 (approximately USD 1,000) each. While the prosecutor in this case asked for the maximum sentence for such a crime in Senegal of five years, the judge added three years to the sentence stating that the homosexual men were also members of a criminal group. Under Article 319 of the Senegalese penal code, homosexual acts are punishable by imprisonment of one to five years and a fine of CFA 100,000 (USD 200) to CFA 1,500,000 (USD 3,000).

#### Attorneys Shocked by Severity of Sentence

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4. (SBU) At the time of the arrest, only one of the accused, a student, had an attorney (paid for by his father). After their case received attention in the media, four attorneys, paid for by ENDA Sante, a branch of the Dakar-based international NGO Environment and Development Action in the Third World (ENDA-TM), took on the case. At the start of the trial, the attorneys did not consider the charges against their clients to be serious and were shocked by the severity of the penalty imposed by the judge. The lawyers believe

that by entering Diouf's apartment, the police violated his right to privacy. Moreover, they have expressed concern for what they believe to be violations of their clients' right to a free and fair trial and the right to freedom from discrimination. On January 12, the attorneys filed for appeal. While their appeal is pending, they are working closely with civil society and human rights organizations to seek the release of the nine men, as well as to find ways to protect gays in Senegal.

#### Civil Society Working Toward Release of Men

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15. (SBU) On January 13, ENDA Sant organized a meeting with Senegalese AIDS activists, international partners, and other representatives of civil society to discuss what could be done to bring about the release of the men. Representatives from local and international anti-AIDS, public health and human rights NGOs, UNAIDS, UNDP, the European Commission, as well as representatives from the U.S., French, and Swedish embassies attended the meeting.

16. (SBU) Representatives from Enda Sant also met with officials from the Ministries of Health, Interior, and Justice to discuss the release of the men and also find solutions for the protection of the Senegalese gay community. Enda Sant continues to visit the nine men in prison and to provide them with food, and has received assurances from prison officials that the men will be safe during their incarceration.

#### Arrests Provoke International Outrage

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17. (U) The gay rights NGO International Gay and Lesbian Human Rights Commission (IGLHRC) said it was "shocked by the ruling." On January 14, French President Nicolas Sarkozy expressed concern over the ruling. The French government has officially requested their release and pleaded for the decriminalization of homosexuality in Senegal.

#### Homophobia on the Rise

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18. (SBU) While gay men are occasionally arrested and prosecuted, traditionally social stigma and blackmail are the most prevalent forms of abuse faced by homosexuals. However, anti-gay sentiment has been on the rise across West Africa in recent years. Although Senegal has a reputation for religious tolerance, international human rights organizations have expressed concern recently over the apparent rise of homophobia in the country. In February 2008, a group of men were arrested after a magazine printed photographs of what purported to be a gay wedding. The magazine editor received death threats and one of the men sought and received asylum in the United States. Representatives from the African Council of AIDS Service Organizations (AfriCASO), told EmbOffs that while conducting an AIDS education program recently in a Dakar suburb some people threw rocks at them, ostensibly in protest against homosexuality.

#### Creeping Religious Conservatism

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19. (SBU) Comment: While homophobia is reportedly on the rise throughout West Africa, it is not clear why it is appears to be on the rise in Senegal in particular. In spite of being more than 90 percent Muslim, Senegal does not have a history of actively persecuting homosexuals. The particular form of Islam practiced here has always been noted for being more tolerant than the forms of Islam found in the Arabian peninsula and Gulf countries. However, the country has seen religion and religious leaders take on more prominent roles in politics since President Abdoulaye Wade was elected in 2000. Wade broke with 40 years of tradition by ostentatiously declaring his membership in the Mourides Muslim brotherhood and actively courted the approval and public support of the brotherhood's caliph-general. During the drafting of a new constitution, he attempted to have the description of Senegal as a

secular country removed.

¶10. (SBU) In another recent break with the country's tradition of tolerance, in 2008 prosecutors arrested and indicted a young woman for obscenity for risqu dancing in a night club after a video of the dancer and her colleagues became popular on the streets of Dakar. These incidents coincide with a slow but perceptible increase in the number of women wearing traditional Islamic scarves and the small but increasing presence of Muslim fundamentalists. It remains too early to say with any certainty, but the arrest and sentencing of these men could be indicative of growing religious conservatism in Senegal. End comment.  
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